IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1110 of 2007

RUPA DEVI
V/S
S.E.,IRRIGATION CIRCLE,SVNR. & ORS.

Mr. DEVENDRA SINGH DEV, for the appellant / petitioner

Mr. PANKAJ SHARMA, for the respondent

Date of Order : 3.4.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties, perused the impugned order Annex.10.

A look at the order Annex.10 shows that the tenor of the order is that on the appeal filed by the appellant before the Superintending Engineer against the order dated 27.11.2006 some request was made for staying the operation of the order, and thereupon on 11.12.2006, the Superintending Engineer telephonically communicated the Executive Engineer not to construct the Naka, but then the Naka had been constructed. This appears to have antagonised the Superintending Engineer, and therefore, the order of the Executive Engineer has been set aside.

In my view, the Superintending Engineer was appellate authority, and was required to behave with more amount of sobriety instead of getting annoyed in the manner

it appears to have got annoyed. Obviously, the order cannot be said to be an out come of objective and dispassionate consideration of matter on merits by the Superintending Engineer. It may be observed that it was also pointed out by the learned counsel for the petitioner that the order was passed by the learned Superintending Engineer even before the date already fixed for hearing. Be that as it may.

Consequently, the writ petition is allowed, the order Annex.10 is set aside, and the matter is sent back to the Superintending Engineer to hear both the parties, consider the matter objectively and dispassionately in accordance with law on the relevant parameters, and then to decide the matter afresh. The parties are directed to appear before the Superintending Engineer on 15th of April 2007. The Superintending Engineer is directed to expeditiously decide the matter.

(N P GUPTA),J.

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